

CONFERENCE COMMITTEE SUBSTITUTE

FOR

SENATE COMMITTEE SUBSTITUTE

FOR

HOUSE BILL NO. 1135

AN ACT

To repeal sections 536.041 and 536.325, RSMo, and to enact in lieu thereof four new sections relating to administrative procedures and review.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF MISSOURI, AS FOLLOWS:

1 Section A. Sections 536.041 and 536.325, RSMo, are repealed
2 and four new sections enacted in lieu thereof, to be known as
3 sections 536.032, 536.041, 536.175, and 536.325, to read as
4 follows:

5 536.032. Upon the filing of a request by a state agency
6 with the joint committee on administrative rules and the
7 secretary of state concurrently, and after publication in the
8 Missouri Register, the secretary of state shall have the
9 authority to make nonsubstantive changes to the code of state
10 regulations to update changes in department or division name
11 information in response to statutory changes or executive orders,
12 or to changes in state agency addresses, state agency telephone
13 numbers, email addresses, or state agency website addresses.

14 536.041. Any person may file a written petition with an
15 agency requesting the adoption, amendment or repeal of any rule.

1 Any agency receiving such a petition or other request in writing
2 to adopt, amend or repeal any rule shall forthwith furnish a copy
3 thereof to the joint committee on administrative rules and to the
4 commissioner of administration[, together with the action, if
5 any, taken or contemplated by the agency as a result of such
6 petition or request, and the agency's reasons therefor]. Within
7 sixty days after the receipt of the petition, the agency shall
8 submit a written response to the petitioner and copies of the
9 response, in electronic format, to the joint committee on
10 administrative rules and to the commissioner of administration,
11 containing its determination whether such rule should be adopted,
12 continued without change, amended, or rescinded, together with a
13 concise summary of the state agency's specific facts and findings
14 with respect to the criteria set forth in subsection 4 of section
15 536.175. If the agency determines the rule merits adoption,
16 amendment, or rescission, it shall initiate proceedings in
17 accordance with the applicable requirements of this chapter. The
18 joint committee may refer comments or recommendations concerning
19 such rule to the general assembly for further action. Upon
20 timely application, the joint committee on administrative rules
21 may grant, upon good cause shown, an extension of time to answer
22 a petition. A written petition submitted in accordance with this
23 section shall constitute notice for purposes of subsection 9 of
24 section 536.021.

25 536.175. 1. Each state agency shall periodically review
26 all of its rules according to the following review schedule:

27 (1) Rules contained in titles 1 through 6 of the code of
28 state regulations shall begin the review process no later than

1 July 1, 2015, and every five years thereafter;

2 (2) Rules contained in titles 7 through 10 of the code of
3 state regulations shall begin the review process no later than
4 July 1, 2016, and every five years thereafter;

5 (3) Rules contained in titles 11 through 14 of the code of
6 state regulations shall begin the review process no later than
7 July 1, 2017, and every five years thereafter;

8 (4) Rules contained in titles 15 through 19 of the code of
9 state regulations shall begin the review process no later than
10 July 1, 2018, and every five years thereafter; and

11 (5) Rules contained in titles 20 and higher of the code of
12 state regulations shall begin the review process no later than
13 July 1, 2019, and every five years thereafter.

14 2. The joint committee on administrative rules shall cause
15 a notification of agency review to be published in the Missouri
16 Register indicating rules being reviewed under this section and
17 shall contain:

18 (1) Which titles of the code of state regulations will be
19 under review;

20 (2) A notice that anyone may file comments concerning the
21 rules being reviewed no later than sixty days after publication
22 of the notice in the Missouri Register;

23 (3) A notice that all comments must identify the commenter,
24 must specify the rule being commented upon, and must contain
25 comments directly associated to that rule;

26 (4) A listing of agency designee assigned to receive
27 comments on rules under review;

28 3. State agencies shall provide the joint committee on

1 administrative rules contact information for the agency designee
2 assigned to receive comments under subsection 2 of this section.

3 4. Each agency with rules being reviewed, shall prepare a
4 report containing the results of its periodic rule review. The
5 report shall consider and include the following:

6 (1) Whether the rule continues to be necessary, taking into
7 consideration the purpose, scope, and intent of the statute under
8 which the rule was adopted;

9 (2) Whether the rule is obsolete, taking into consideration
10 the length of time since the rule was modified and the degree to
11 which technology, economic conditions, or other relevant factors
12 have changed in the subject area affected by the rule;

13 (3) Whether the rule overlaps, duplicates, or conflicts
14 with other state rules, and to the extent feasible, with federal
15 and local governmental rules;

16 (4) Whether a less restrictive, more narrowly tailored, or
17 alternative rule could adequately protect the public or
18 accomplish the same statutory purpose;

19 (5) Whether the rule needs amendment or rescission to
20 reduce regulatory burdens on individuals, businesses, or
21 political subdivisions or eliminate unnecessary paperwork;

22 (6) Whether the rule incorporates a text or other material
23 by reference and, if so, whether the text or other material
24 incorporated by reference meets the requirements of section
25 536.031;

26 (7) For rules that affect small business, the specific
27 public purpose or interest for adopting the rules and any other
28 reasons to justify its continued existence; and

1 (8) The nature of the comments received by the agency under
2 subsection 2 of this section, a summary of which shall be
3 attached to the report as an appendix and shall include the
4 agency's responses thereto.

5 5. Each agency with rules subject to review shall cause
6 their report to be filed electronically with the joint committee
7 on administrative rules and the small business regulatory
8 fairness board no later than June thirtieth of the year after
9 publication of agency review in the Missouri Register under
10 subsection 2 of this section. The reports shall also be made
11 available on the state agency's website. If the state agency
12 fails to file the report as required by this section for any rule
13 and has not received an extension for good cause from the joint
14 committee on administrative rules, the joint committee on
15 administrative rules shall notify the secretary of state to
16 publish a notice as soon as practicable in the Missouri Register
17 as to which rules the delinquency exists. The rule shall be void
18 and of no further effect after the first sixty legislative days
19 of the next regular session of the general assembly unless the
20 state agency corrects the delinquency by providing the required
21 review within ninety days after publication. Upon determination
22 that the agency has complied with the requirements of this
23 section regarding any delinquency that resulted in notice being
24 published, the joint committee on administrative rules shall
25 notify the secretary of state to remove the rule from the notice
26 of rules scheduled to become null and void.

27 536.325. 1. [Each agency with rules that affect small
28 business shall submit by June thirteenth of each odd-numbered

1 year a list of such rules to the general assembly and the board.
2 The agency shall also submit a report describing the specific
3 public purpose or interest for adopting the respective rules and
4 any other reasons to justify its continued existence. The
5 general assembly may subsequently take such action in response to
6 the report as it finds appropriate.

7 2.] The board shall provide to the head of each agency a
8 list of any rules adopted by the agency that affect small
9 business and have generated complaints or concerns, including any
10 rules that the board determines may duplicate, overlap, or
11 conflict with other rules or exceed statutory authority. Within
12 forty-five days after being notified by the board the list of
13 rules adopted, the agency shall submit a written report to the
14 board in response to the complaints or concerns. The agency
15 shall also state whether the agency has considered the continued
16 need for the rules and the degree to which technology, economic
17 conditions, and other relevant factors may have diminished or
18 eliminated the need for maintaining the rules.

19 [3.] 2. The board may solicit testimony from the public at
20 a public meeting regarding any report submitted by the agency
21 under this section or section 536.175. The board shall
22 electronically submit an evaluation report to the governor and
23 the general assembly regarding small business comments, agency
24 response, and public testimony on rules in this section and the
25 report shall be maintained on the board's website. The governor
26 and the general assembly may take such action in response to the
27 report as they find appropriate.

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